

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #16	CCRB Case #: 201608693	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 10/16/2016 7:35 PM	Location of Incident: 770 Broadway	Precinct: 09	18 Mo. SOL 4/16/2018	EO SOL 4/16/2018	
Date/Time CV Reported Mon, 10/17/2016 9:41 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/17/2016 9:41 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Harrison Paperman	07895	959043	009 PCT
2. POM Thomas Morton	02398	925787	009 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Mckeon	13969	956910	009 PCT
2. POM Justin Conde	18142	958421	009 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Harrison Paperman	Force: Police Officer Harrison Paperman used physical force against § 87(2)(b)	
B.POM Thomas Morton	Force: Police Officer Thomas Morton used a chokehold against § 87(2)(b)	
C.POM Thomas Morton	Force: Police Officer Thomas Morton used physical force against § 87(2)(b)	
D.POM Thomas Morton	Force: Police Officer Thomas Morton used a chokehold against § 87(2)(b)	
E.POM Thomas Morton	Force: Police Officer Thomas Morton used physical force against an individual.	
F.POM Thomas Morton	Discourtesy: Police Officer Thomas Morton spoke discourteously to an individual.	
G.POM Thomas Morton	Off. Language: Police Officer Thomas Morton made remarks to an individual based upon the perceived sexual orientation of individuals.	
H.POM Thomas Morton	Off. Language: Police Officer Thomas Morton made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
I.POM Thomas Morton	Discourtesy: Police Officer Thomas Morton spoke discourteously to § 87(2)(b)	

Case Summary

On October 17, 2016, § 87(2)(b) filed this complaint with the CCRB via telephone.

On October 16, 2016, at approximately 7:35 p.m., PO Harrison Paperman and PO Thomas Morton responded to the Kmart store located on 770 Broadway in Manhattan upon receiving a radio run at the location in regards to security guards attempting to restrain § 87(2)(b) who was caught shoplifting. At the location, PO Paperman attempted to place § 87(2)(b) in handcuffs by pulling § 87(2)(b) to the ground and handcuffing him (**Allegation A**). At some point, § 87(2)(b)'s cousin, § 87(2)(b) entered the location and PO Morton allegedly grabbed the front of § 87(2)(b) neck with one hand (**Allegation B**). Video evidence shows that PO Morton pushed § 87(2)(b) out of the location (**Allegation C**). While outside of the store, PO Morton allegedly placed § 87(2)(b) in a chokehold (**Allegation D**). PO Morton also allegedly tackled an unidentified male bystander to the ground outside of the location (**Allegation E**). It was also alleged that PO Morton told this male bystander, "You fucking pussy," and stated, "Over here defending faggots" (**Allegations F and G**). At some point, PO Morton allegedly called § 87(2)(b) "faggot" and stated, "Homosexuals deserve everything they get and cannot complain about how people treat you because you're fucking evil" (**Allegations H and I**).

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) were both arrested during this incident (Board Review 21 and 22).

The investigation for this case exceeded the 90 day benchmark by 29 days. The undersigned was attempting to obtain video footage from the Kmart before interviewing the officers involved. The case was further delayed due to the process of identifying and scheduling an interview for the security guards involved with this incident. The investigation also spent time trying to determine whether one of the people depicted using profanity against § 87(2)(b) was a member of the NYPD, as discussed in the Potential Issues section.

This case contains video evidence, SnagIt copies of which have been placed below. Please note that the original videos can be found at Board Review 10 and 11 and the transcriptions can be found at Board Review 12 and 13.

This video was recorded on § 87(2)(b)'s cellphone.



2017-02-06_15-43-45.mp4

This is video surveillance provided by Kmart capturing the lobby of the store.



2017-02-06_16-03-47.mp4

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to § 87(2)(b) and § 87(2)(b) arrest.

footage he provided depicted this person wandering into the scene and assisting the uniformed officers with placing § 87(2)(b) in handcuffs (Board Review 01). This unidentified person was also captured in the recording using profanities. However, as depicted in the recording, this person was wearing plainclothes and was not carrying items (a shield, handcuffs, or a firearm) indicating that he was as an NYPD officer or an officer of any kind. Additionally, none of the officers or civilians recognized this person even after reviewing the video footage. Two Kmart Loss Prevention associates, § 87(2)(b) and § 87(2)(b), were shown a still-frame photo of this person and they stated that they did not know who he was (Board Review 09 and 24). § 87(2)(b) stated that the person mentioned that he was an off-duty officer during the incident, but § 87(2)(b) did not have any additional conversation with him or establish whether or not this person was an NYPD officer. Therefore, without any additional information the investigation was unable to identify whether or not this person was a member of the NYPD.

- § 87(2)(b)”, identified via the investigation as one of the three security guards attempting to arrest § 87(2)(b) could not be reached. The undersigned spoke with § 87(2)(b), § 87(2)(b),” who stated that § 87(2)(b) was out of the country and he did not know when he would be returning.
- Because he was incarcerated at the time, § 87(2)(b) was interviewed on November 3, 2016 via the CCRB video telephone conference. However, § 87(2)(b) failed to sign and notarize a verification form despite agreeing to do so after the interview. On November 30, 2016, a check of the NYC Department of Correction website indicated that § 87(2)(b) was not incarcerated. Despite multiple contact attempts to § 87(2)(b) he failed to have the verification statement notarize and submitted for the case file.
- § 87(2)(b) refused to provide a statement to the CCRB due to her ongoing criminal case in regards to her arrest during this incident.
- Database queries could not be conducted for the male bystander that was pushed during the incident without his name or any contact information. Additionally, this individual was not arrested nor summonsed and none of the officers recorded his information. Without any additional information aside from video footage briefly showing the unidentified male bystander’s face and given the absence of any possible leads, the investigation was unable to identify this victim.
- PO Paperman and PO Morton were both aware of the existence of additional video footage aside from the Kmart surveillance video footage prior to their CCRB interviews. During PO Paperman’s CCRB interview, PO Paperman stated that he was previously shown the exact same video as provided by § 87(2)(b) (Board Review 25). He stated that his Commanding Officer showed him the video the day after the incident date in an attempt to identify the person wearing a green jacket captured in the video. In PO Morton’s CCRB testimony, he stated that the assistant ICO, Sgt. Fabitti, showed him a video clip (Board Review 05). However, PO Morton stated that he did not pay attention to the video at the time the video was presented to him and did not know if the video Sgt. Fabitti showed him was the same video § 87(2)(b) recorded.

Findings and Recommendations

Allegations not pleaded:

Threat of force-

PO Paperman alleged that after he issued verbal commands for § 87(2)(b) to put his hands behind his back, he told § 87(2)(b) “If you continue to resist I will use physical force.” None of the civilians, including § 87(2)(b) stated that they heard PO Paperman saying this. Upon making this statement, PO Paperman brought § 87(2)(b) to the ground. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation A –Force: Police Officer Harrison Paperman used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) was not restrained and was actively struggling with the three Kmart security guards prior to PO Paperman and PO Morton’s arrival. It is also undisputed that PO Paperman used physical force to bring § 87(2)(b) to the ground.

In his unverified CCRB testimony, § 87(2)(b) acknowledged that prior to the officers’ arriving, he prevented the Kmart security guards from placing him in handcuffs and attempted to break free of their grip (Board Review 04). § 87(2)(b) stated that when the officers arrived to the location, PO Paperman grabbed the collar of his jacket and threw him forward with the help of the security guards. § 87(2)(b) denied moving his arms or kicking. § 87(2)(b) stated that he was handcuffed within 15-20 seconds after he had been taken down to the ground. § 87(2)(b) stated that he sustained an abrasion across his face after being pulled to the ground and was treated at the hospital for the injury on the same day.

§ 87(2)(b) affirmed that he saw § 87(2)(b) on the ground during the incident, but he did not see how § 87(2)(b) had been taken down to the ground (Board Review 03). As stated above, § 87(2)(b) did not provide a CCRB testimony due to her ongoing criminal case.

In his CCRB testimony, § 87(2)(b) stated that once the officers arrived, PO Paperman told § 87(2)(b) to place his hands behind his back, but § 87(2)(b) verbally and physically refused to do so (Board Review 09). § 87(2)(b) began pulling his arms forward. In response PO Paperman grabbed § 87(2)(b)’s right arm, placed it in handcuffs and behind his back. § 87(2)(b) continued pulling his arm away in an effort to avoid being handcuffed. PO Paperman pulled § 87(2)(b) forward and brought him down to the ground. Once on the ground, PO1 pulled § 87(2)(b)’s other arm back and handcuffed him. § 87(2)(b) did not see § 87(2)(b)’s head making contact with the ground or see PO Paperman making physical contact with his head.

§ 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) threw himself on the ground once he saw PO Paperman arrive on the scene (Board Review 08). § 87(2)(b) did not see PO Paperman or any officers making any contact with § 87(2)(b) as he threw himself on the ground. § 87(2)(b) denied seeing any PO Paperman or any officers pushing or pulling § 87(2)(b) to the ground.

In his CCRB testimony, PO Paperman stated that he told § 87(2)(b) to place his hands behind his back and § 87(2)(b) refused to do so; instead he physically turned away and moved his hands away from PO Paperman's reach (Board Review 25). PO Paperman stated that he issued at least five verbal commands to § 87(2)(b) to place his hands behind his back. However, he constantly refused to do so. PO Paperman grabbed § 87(2)(b)'s wrist and § 87(2)(b) began pulling away. PO Paperman grabbed § 87(2)(b)'s arm and used his body weight to push § 87(2)(b) to the ground. Subsequently, PO Paperman grabbed § 87(2)(b)'s right arm while PO Justin Conde assisted by grabbing his left arm. PO Paperman and PO Conde were both eventually able to handcuff § 87(2)(b) while he was on the ground. During his CCRB interview, PO Paperman reviewed the Kmart surveillance video footage and confirmed that force he used against § 87(2)(b) was depicted in the video between 47:13 minutes to 47:31 minutes (Board Review 11). This segment of the video can also be found between 00:17 - 00:34 seconds of the SnagIt copy (Board Review 02).

Neither PO Morton nor PO McKeon saw PO Paperman taking § 87(2)(b) down to the ground (Board Review 05 and 06). However, after reviewing the footage PO McKeon affirmed that he saw the § 87(2)(b) taken down to the ground, but he did not have any independent recollection of the incident. Even after reviewing the Kmart surveillance video footage, PO Morton stated that he did not have anything to add or amend to his testimony.

PO Conde stated that upon arriving on the scene he saw PO Paperman struggling with § 87(2)(b) and at some point § 87(2)(b) ended up on the ground (Board Review 07). However, PO Conde did not recall how § 87(2)(b) came to be on the ground. PO Conde reviewed the Kmart surveillance video footage between 47:22 minutes and 47:31 minutes and stated that was when § 87(2)(b) came to be on the ground. PO Conde stated that he was not inside the store during the incident depicted in the video and that § 87(2)(b) was already on the ground when he entered. The video recorded by § 87(2)(b) did not capture PO Paperman pushing or pulling § 87(2)(b) to the ground or any of the circumstances leading up to the force (Board Review 01). Kmart surveillance video showed PO Paperman attempting to pull § 87(2)(b) forward unsuccessfully immediately prior to pulling him to the ground at 47:26 minutes (Board Review 02).

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Only the reasonable force necessary to gain control or custody of a subject will be used, Patrol Guide Procedure 221-01 (Board Review 14).

It is undisputed across all accounts that § 87(2)(b) was initially struggling with the three Kmart security guards. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Even though § 87(2)(b) complained of an abrasion to his face, § 87(2)(b) failed to provide the investigation with signed HIPAA release forms that would have documented the extent of his injuries. Additionally, § 87(2)(b)'s described injury was not depicted in his arrest photo. § 87(2)(g)

§ 87(2)(g)

Allegation B –Force: Police Officer Thomas Morton used a chokehold against § 87(2)(b)

Allegation C –Force: Police Officer Thomas Morton used physical force against § 87(2)(b)

§ 87(2)(g)

In his CCRB statement, § 87(2)(b) stated that he saw PO Morton place his hand against § 87(2)(b) neck and push her backwards out of the store while § 87(2)(b) was being handcuffed (Board Review 03). § 87(2)(b) described that PO Morton's hand was formed into a "U" shape with his palm against § 87(2)(b) neck. § 87(2)(b) stated that § 87(2)(b) was yelling and might have been pointing towards the security and officers prior to being pushed. § 87(2)(b)'s view of § 87(2)(b) was briefly obstructed by a pillar once she was pushed out of the store.

§ 87(2)(b)'s cell phone video did not capture how § 87(2)(b) was removed from the store (Board Review 01). The surveillance video footage obtained from Kmart depicted the events when § 87(2)(b) entered the store, approached the officers, and PO Morton pushed her out of the store

(Board Review 02). Due to the angle of the surveillance camera, it is not conclusive as to which specific part of her body PO Morton was making physical contact with, but as the video indicates it appears that he was making contact somewhere on her upper torso area. As PO Morton was pushing § 87(2)(b) back to the door, he did not cease physical contact with § 87(2)(b) until she was out of the door.

As stated above, § 87(2)(b) did not provide a CCRB testimony due to her ongoing criminal case.

§ 87(2)(b) stated that he did not recall seeing PO Morton making any physical contact with § 87(2)(b) neck area during the incident (Board Review 04). He stated that § 87(2)(b) was recording inside the store and at some point § 87(2)(b) went near the officers and stated profanities towards PO Morton.

§ 87(2)(b) saw § 87(2)(b) taking pictures and using profanities during the incident (Board Review 08). § 87(2)(b) stated that she was standing outside and he only saw her after the officers arrived on the scene. § 87(2)(b) denied seeing any officers pushing § 87(2)(b) or holding her neck. Furthermore, § 87(2)(b) denied seeing any officers placing her in a chokehold. He stated that did not have an independent recollection of an officer pushing anyone even after reviewing the Kmart surveillance video footage.

§ 87(2)(b) stated that when the officers arrived, PO Morton told § 87(2)(b) to step outside and that it was a police matter (Board Review 09). PO Morton told § 87(2)(b) not to come in while placing his forearm, horizontally, in front of him and pushed § 87(2)(b) back approximately two

feet. § 87(2)(b) did not state where on § 87(2)(b) body he saw PO Morton pushing her by, but he denied seeing any officers holding § 87(2)(b) neck. During the interview, after reviewing the Kmart surveillance video footage, § 87(2)(b) affirmed that between 47:02 minutes and 47:14 minutes depicted when PO Morton pushed § 87(2)(b).

During his interview, PO Morton stated that upon arriving on scene § 87(2)(b) approached him yelling (Board Review 05). § 87(2)(b) stood approximately a foot or less away from PO Morton at the time while PO Morton was standing approximately three feet or less from § 87(2)(b) (who was not handcuffed yet). PO Morton told § 87(2)(b) to step back and she complied by stepping back two feet. PO Morton turned his back towards § 87(2)(b) and § 87(2)(b) approached PO Morton again. This time, § 87(2)(b) was approximately a foot away from PO Morton. PO Morton told § 87(2)(b) to step back again, but she refused to step back and yelled about “filming” and “suing.” PO Morton told § 87(2)(b) that she was interfering with his job and was committing a crime by obstructing governmental administration. PO Morton stated that § 87(2)(b) did not make physical contact with him, but she was preventing him from arresting § 87(2)(b) by getting into his space. PO Morton noted that there was no defined distance of where § 87(2)(b) had to stand, but stated that § 87(2)(b) was a threat to him and was interfering due to her physical presence behind him and her aggressive behavior. PO Morton initially stated in his CCRB testimony that when he informed § 87(2)(b) that she was under arrest, she ran out the door. Conversely, after reviewing the Kmart surveillance video footage, PO Morton stated that § 87(2)(b) walked out of the store and did not run until she exited the store. Additionally, PO Morton denied making physical contact with § 87(2)(b) inside the store and denied pushing her. PO Morton denied placing his hand around § 87(2)(b) neck or pushing her by the neck.

PO Paperman did not know where § 87(2)(b) was positioned when he initially arrived on the scene and did not see her entering the store during the incident (Board Review 25). Upon reviewing the Kmart video surveillance during his CCRB statement, PO Paperman stated that he was aware that § 87(2)(b) had entered the store at some point. PO Paperman stated that he did not hear the conversation between PO Morton and § 87(2)(b) and denied seeing PO Morton push § 87(2)(b) or making any contact with her neck. After reviewing the video footage during his CCRB interview, he affirmed that he saw PO Morton pushing § 87(2)(b) but PO Paperman stated that he did not have an independent recollection of this incident.

§ 87(2)(g) PO Conde and PO McKeon did not recall what § 87(2)(b) was doing during the incident (Board Review 06 and 07). Neither PO Conde nor PO McKeon witnessed PO Morton pushing § 87(2)(b) by her neck. PO Conde further stated that he did not see PO Morton pushing § 87(2)(b). During their interviews, after reviewing the Kmart surveillance video footage, neither of the officers had any independent recollection of the occurrence between PO Morton and § 87(2)(b) as depicted in the video.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Only the reasonable force necessary to gain control or custody of a subject will be used, Patrol Guide Procedure 221-01 (Board Review 14).

§ 87(2)(g)

§ 87(2)(g)

Allegation D –Force: Police Officer Thomas Morton used a chokehold against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

It has been established by video evidence that PO Morton placed his arm around § 87(2)(b) neck (Board Review 01).

Patrol Guide Procedure 221-01 states that a chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air,” (Board Review 14)

Cellphone video footage provided by § 87(2)(b) captured the back side of PO Morton and § 87(2)(b) as he was attempting to restrain her outside of the store (Board Review 01). Between 00:02 and 00:05 seconds, the video indicates PO Morton wrapping his arm against § 87(2)(b) neck from behind as he was positioned behind her.

§ 87(2)(b) did not provide a CCRB testimony due to her ongoing criminal case. § 87(2)(b) and § 87(2)(b) denied seeing PO Morton placing § 87(2)(b) in a chokehold (Board Review 04-06). During his CCRB testimony, § 87(2)(b) initially did not indicate that PO Morton placed § 87(2)(b) in a chokehold by wrapping his arm around her neck. However, after § 87(2)(b) reviewed the video footage during his interview, he stated at 00:02 seconds into the video showed PO Morton wrapping his arm around § 87(2)(b) neck. § 87(2)(b) did not provide any additional details in regards to this action (Board Review 03).

During his CCRB interview, PO Morton stated that when he informed § 87(2)(b) that she was going to be under arrest, § 87(2)(b) resisted arrest by attempting to flee (Board Review 05). He stated that he grabbed her shoulders and took her to the ground. PO Morton stated that he did not recall how § 87(2)(b) was brought to the ground. An AIDED report and a Line of Duty report were prepared for PO Morton (Board Review 19 and 20). In both reports, it was documented that PO Morton sustained pain to his left shoulder after attempting to place § 87(2)(b) in handcuffs while forcibly taking her down to the ground. In his initially testimony, PO Morton denied placing § 87(2)(b) in a chokehold.

After PO Morton reviewed the entire video during his CCRB testimony, PO Morton stated that he had a different recollection of the incident than what was captured in the video. PO Morton stated that at 00:03 seconds of the video, he was restraining § 87(2)(b) with his arm “probably on the side of her neck.” When asked to specify as to what the positioning of his arm, PO Morton could not explain what he meant and stated that he did not have an independent recollection of this incident (Board Review 05).

None of the officers interviewed witnessed PO Morton placing § 87(2)(b) in a chokehold (Board Review 06, 07, and 25). Even after reviewing the video footage, none of the officers were able to provide context the depicted force used by PO Morton used against § 87(2)(b).

An officer may use force when it is reasonable to ensure the safety of a member of the service. Members of the service shall not use a chokehold, Patrol Guide Procedure 221-01 (Board Review 14).


§ 87(2)(g)



Allegation E –Force: Police Officer Thomas Morton used physical force against

§ 87(2)(b)

It is undisputed that PO Morton pushed an unidentified bystander during the incident. § 87(2)(b)



§ 87(2)(b) stated that there were approximately 20 people watching the incident from outside the store (Board Review 03). After seeing § 87(2)(b) get pushed out of the store, § 87(2)(b) saw PO Morton tackle a male bystander who was standing approximately eight or ten feet away from the incident with other bystanders by the main doors. § 87(2)(b) stated that PO Morton used one arm to push the front of the male bystander's body and used his other hand to hook him from the back causing the male bystander to fall sideways. The male bystander landed on his side and shoulder. § 87(2)(b) stated that this male bystander was not doing anything and he could not hear if he was making any statements. § 87(2)(b) did not see the male bystander striking any officers. After PO Morton tackled the male bystander, PO Morton resumed assisting with § 87(2)(b) arrest. After it appeared that § 87(2)(b) was restrained, PO Morton held the male bystander by the collar of his outer clothing and screamed, "You were in the way."

According to § 87(2)(b) he began recording the incident after this male bystander was pushed down. Evidently, the video did not show PO Morton pushing the male, but it showed PO Morton interacting with the male and stating "We're effecting an arrest, you do not get involved and you do go near any suspect okay?"

In his unverified statement, § 87(2)(b) stated that when the officers arrived on the scene, he saw PO Morton grabbing a male bystander by his shoulder and head area and slamming him to the ground (Board Review 04). § 87(2)(b) stated that the male bystander was initially recording the incident from outside and was telling the officers that they were wrong and that they did not have to be so forceful. § 87(2)(b) stated that he did not see any civilians coming close to any officers.

§ 87(2)(b) denied seeing any civilians interfering with the arrest situation or any officers pushing any civilians (Board Review 08). § 87(2)(b) stated that he did not exit the building during the incident. § 87(2)(b) reviewed the video footage provided by § 87(2)(b) and he affirmed that he did not witness any of the occurrences as depicted in the video with regards to the unidentified male bystander.

Aside from seeing § 87(2)(b) on the ground, § 87(2)(b) denied seeing any officers pushing any civilians to the ground or seeing any other civilians on the ground (Board Review 09). § 87(2)(b) stated that he was inside the store and did not see whether or not there was a crowd. § 87(2)(b) reviewed the video footage provided by § 87(2)(b) and he stated that he did not know the male bystander and did not see him on the ground during the incident.

PO Morton stated that as he was struggling with § 87(2)(b) trying to place her in handcuffs, a male bystander approached him (Board Review 05). PO Morton stated that the male bystander stood by his left side, which was also where his gun was holstered. PO Morton did not recall how far away this male was, but PO Morton stated that he felt that the male was close. PO Morton stated that this male was standing at an angle that allowed the male to hurt PO Morton if he wanted to. In response, PO Morton used one arm to push the male bystander away. PO Morton did not state whether or not he verbally warned the male bystander that he was standing too close. PO Morton did not recall which part of this male's body he made physical contact with. PO Morton stated that he might have pushed the male two times in succession because the male was still standing less than an arm's length away. During the second time PO Morton pushed the male, PO Morton used both hands with his palms facing outward and arms extended to push the

male bystander. The male fell as a result of the push. After the male fell, PO Morton stood over the male and yelled at him, telling him that he was interfering with an arrest and that he could be under arrest. The male responded by saying something to the effect of, “You scaring me.” PO Morton denied tackling the male during the incident. PO Morton stated that during this occurrence, § 87(2)(b) was still not handcuffed. After speaking to the male, PO Morton went to place § 87(2)(b) in handcuffs and at some point, the male left the scene.

None of the additional officers interviewed had any independent recollection of this incident. Moreover, even after reviewing the video footage, none of the officers knew who the male was (Board Review 06, 07, and 25).

An officer may use force when it is reasonable to ensure the safety of a member of the service. Moreover, the degree of force employed must be reasonable given the circumstances, Patrol Guide Procedure 221-01 (Board Review 14).

PO Morton admitted that he pushed the male bystander because he was standing too close to him while he was still struggling with § 87(2)(b) on the ground. PO Morton stated that he pushed the male bystander twice in succession because the first push did not create enough distance between him and the male bystander. PO Morton’s second push was more forceful and resulted in the male falling to the ground. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F –Discourtesy: Police Officer Thomas Morton spoke discourteously to

§ 87(2)(b)

Allegation G –Offensive Language: Police Officer Thomas Morton made remarks to
§ 87(2)(b) **based upon the perceived sexual orientation of individuals.**

Allegation H –Offensive Language: Police Officer Thomas Morton made remarks to
§ 87(2)(b) **based upon the perceived sexual orientation of** § 87(2)(b)

Allegation I –Discourtesy: Police Officer Thomas Morton spoke discourteously to § 87(2)(b)

§ 87(2)(g)

During his CCRB interview, § 87(2)(b) did not initially state that PO Morton used profanities or made offensive remarks (Board Review 04). However, later during the interview, when the undersigned asked whether or not he heard any officers calling anyone a pussy, § 87(2)(b)

stated after PO Morton slammed the male bystander on the ground, PO Morton stated, “You fucking pussy,” and “Over here defending the faggots.” § 87(2)(b) also alleged that PO Morton called § 87(2)(b) a “faggot” and stated to her, “Homosexuals deserve everything they get and cannot complain about how people treat you because you’re fucking evil.” Aside from what was already described, § 87(2)(b) did not further establish when he heard the statements being made. Additionally, given the circumstances of § 87(2)(b) being interviewed via video telephone conference, it was not possible to present § 87(2)(b) with the video footages in order to ascertain the specific moments as to when PO Morton made the alleged statements.

During his CCRB testimony, § 87(2)(b) did not state that PO Morton used any profanities or make any remarks in regards to a person’s perceived sexual orientation (Board Review 03). As stated above, § 87(2)(b) did not provide a CCRB testimony due to her ongoing criminal case and the investigation was unable to identify the male bystander.

PO Morton did not recall using any profanities and denied having any discussions in regards to a civilians’ sexual orientation (Board Review 05). None of the officers interviewed stated that they heard any officers using profanities or making any statements in regards to another person’s perceived sexual orientation (Board Review 06, 07, and 25).

Neither of the two video footages depicted PO Morton using profanities or making any offensive remarks (Board Review 01 and 02).

§ 87(2)(g)

Squad:

Investigator: _____

Signature	Print	Date
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Squad Leader: _____

Title/Signature	Print	Date
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Reviewer: _____

Title/Signature	Print	Date
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